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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/642,868	08/18/2003	Vinh Thanh Vu	125-001US	3334
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DEMONT & BREYER, LLC 100 COMMONS WAY, Ste. 250 HOLMDEI., NJ 07733			EXAMINER SAN MARTIN, EDGARDO	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/642,868

Applicant(s)

VU, VINH THANH

Examiner

Edgardo San Martin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2007 and 11 December 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 and 26-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 and 26-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

1. Claim 32 is objected to because of the following informalities:
 - The claim depends upon claim 24, which was cancelled.Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 – 3, 5 and 7 - 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huyett (US 6,230,460) in view of van Goubergen (US 5,330,165).

With respect to claim 1, Huyett teaches an article (Fig.2, Item 16) for use with spherical vibration-control elements (Fig.2, Item 24), wherein the article comprises a plate (Fig.2, Item 20) having a number, n , of spaced wells (Figs.1 and 2, Item 26); wherein the wells (Fig.2, Item 26) are suitably sized so that when a well receives the spherical vibration control element (Fig.2, Item 24), the vibration control element contacts the plate at substantially every point along a perimeter of the well (Figs. 2 and 3); and the wells (Fig.2, Item 26) underlie the spherical vibration control elements (Fig.2, Item 24); and further wherein, in use, the only constraint to unrestricted lateral movement of the spherical vibration control elements are the wells (Figs.2 and 3; Col.2,

Line 22 – Col.3, Line 58); but fails to disclose wherein the spaced wells are arranged in a two-dimensional array, wherein the two-dimensional array comprises at least two rows of the spaced wells with a minimum of three wells in each row.

On the other hand, van Goubergen teaches an article (Figs.1, 2, 4, 6 - 8 and 10) for use with spherical vibration-control elements (Figs.1, 2, 4, 6 - 8 and 10, Item 1), wherein the article comprises a plate (Figs.1, 2, 4, 6 - 8 and 10, Item 2), having a number, n , of spaced wells (Figs.1, 2, 6 - 8 and 10, Item 4) arranged in a two-dimensional array (Figs.6 and 11), wherein the two-dimensional array comprises at least two rows of the spaced wells with a minimum of three wells in each row (Fig. 6); and the wells are suitably sized to receive the spherical vibration control element (Figs.1, 2, 4, 6 - 8 and 10; Col.5, Line 3 – Col.7, Line 14).

It would have been obvious to a person with ordinary skill in the art at the time of the invention was made to employ the van Goubergen two-dimensional array with the Huyett design because the two-dimensional array would help distribute the load applied to the system throughout the whole contact surface, in this manner providing for economical savings in manufacturing and/or production of the article because materials and/or dimensions of the materials could be change based on the ability to resist a particular load amount.

With respect to claims 3, 9, 10, 12 and 13, both Huyett and van Goubergen teaches the limitations described in the claims (Huyett: Figs.2 and 3; Col.2, Line 22 – Col.3, Line 58; van Goubergen: Figs.1, 2, 4, 6 - 8 and 10; Col.5, Line 3 – Col.7, Line 14).

With respect to claims 2, 5 and 11, the Examiner considers that it would have been an obvious matter of design choice to employ a desired amount of wells and/or vibration-control elements; also, to provide the perimeter of the wells with a desired diameter because it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or working ranges involves only routine skill in the art. In re Aller, 105 USPQ 233; as so it is discovering an optimum value of a result effective variable involves only routine skill in the art. In re Boesch, 617 F.2d 272, 205 USPQ 215 (CCPA 1980); additionally, it has been held that omission of an element and its function in a combination where the remaining elements perform the same function as before involves only routine skill in the art. In re Karlson, 136 USPQ 184; furthermore, a change in size is generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955).

With respect to claims 7, 8 and 14, the Examiner considers that it would have been an obvious matter of design choice to provide plates and balls of a particular material because it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

3. Claims 4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huyett (US 6,230,460) in view of van Goubergen (US 5,330,165), and further in view of Bach et al. (US 3,679,159).

Huyett and van Goubergen teach the limitations discussed in a previous rejection, but fail to disclose wherein the top plate further comprises a skirt, wherein the

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skirt depends from a marginal region of the top plate, and further wherein the skirt extends toward the plate and wherein the top plate and the plate have the same shape, and further wherein the top plate is larger than the plate such that the plate fits within an area defined by the skirt.

Nevertheless, Bach et al. teaches an article for use with spherical vibration-control elements (Fig.1, Items 17 - 20), wherein the article comprises a bottom (Fig.1, Item 12) and top plate (Fig.1, Item 15); wherein the top plate (Fig.1, Item 15) further comprising a skirt (Fig.1, Item 16), wherein the skirt depends from a marginal region of the top plate, and further wherein the skirt extends toward the bottom plate; and wherein the top plate is larger than the plate such that the bottom plate fits within an area defined by the skirt (Fig.1).

It would have been obvious to a person with ordinary skill in the art at the time of the invention was made to employ the Bach et al. skirt configuration with the Huyett and van Goubergen design because the skirt, in addition of providing an aesthetic look, it would precludes excessive lateral excursion between the top and bottom plate, and would provide protection against the ingress of dust or any other particulate to the vibration-control elements area that would adversely affect the performance of the article.

4. Claims 15 – 20 and 26 – 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over van Goubergen (US 5,330,165).

With respect to claims 15 and 26, van Goubergen teaches an article comprising a plate (Figs.1 and 6, Items 2 and 2e), wherein the plate comprises a first plurality of

spaced wells (Figs.1 and 6, Items 4 and 4e) arranged in a two-dimensional array (Fig.6); and a second plurality of vibration-control elements (Figs.1 and 6, Item 1), wherein the vibration-control elements are received by the wells, one vibration-control element to a well (Figs.1 and 6), but fails to disclose wherein the vibration-control elements are received by some but not all of the wells.

The Examiner considers that it would have been an obvious matter of design choice to employ a desired amount of wells and/or vibration-control elements because it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or working ranges involves only routine skill in the art. In re Aller, 105 USPQ 233; as so it is discovering an optimum value of a result effective variable involves only routine skill in the art. In re Boesch, 617 F.2d 272, 205 USPQ 215 (CCPA 1980); additionally, it has been held that omission of an element and its function in a combination where the remaining elements perform the same function as before involves only routine skill in the art. In re Karlson, 136 USPQ 184.

With respect to claims 16 – 18, 27 and 32, van Goubbergen teaches the limitations described in the claims (Figs.1 and 6; Col.5, Line 3 – Col.7, Line 14).

With respect to claims 19, 20 and 28 – 31, the Examiner considers that it would have been an obvious matter of design choice to provide plates and balls of a particular material because it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

5. Claims 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bach et al. (US 3,679,159) in view of van Goubergen (US 5,330,165).

With respect to claim 21, Bach et al. teach an article comprising a bottom plate (Fig.1, Item 13), a plurality of resilient balls (Fig.1, Items 17 – 20), wherein the resilient balls are received by the bottom plate; and a top plate (Fig.1, Item 15), wherein the top plate is disposed on the resilient balls, and wherein a surface of the top plate that abuts the resilient balls is planar and does not include wells (Fig.1; Col.2, Line 25 – Col.3, Line 14), but fail to disclose wherein the bottom plate comprises a plurality of spaced wells arranged in a two-dimensional array, and wherein the resilient balls are received by some but not all of the wells.

Nevertheless, van Goubergen teaches an article comprising a bottom plate (Fig.6, Item 2e), wherein the bottom plate comprises a plurality of spaced wells (Fig.6, Item 4e) arranged in a two-dimensional array (Fig.6); a plurality of resilient balls (Fig.6, Item 1), wherein the resilient balls are received by the wells (Fig.6); and a top plate (Fig.6, Item 2e), wherein the top plate is disposed on the resilient balls (Fig.6).

The Examiner considers that it would have been an obvious matter of design choice to employ a desired amount of wells and/or vibration-control elements because it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or working ranges involves only routine skill in the art. In re Aller, 105 USPQ 233; as so it is discovering an optimum value of a result effective variable involves only routine skill in the art. In re Boesch, 617 F.2d 272, 205 USPQ 215 (CCPA 1980); additionally, it has been held that omission of an element and its function

in a combination where the remaining elements perform the same function as before involves only routine skill in the art. In re Karlson, 136 USPQ 184.

It would have been obvious to a person with ordinary skill in the art at the time of the invention was made to employ the van Goubergen wells configuration with the Bach et al. design because the wells would provide a constraint against lateral movements, improving the stability of the system.

With respect to claim 22, the Examiner considers that it would have been an obvious matter of design choice to provide plates of a particular material because it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

Response to Arguments

6. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Contact Information

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edgardo San Martin whose telephone number is (571) 272-2074. The examiner can normally be reached on 8:00AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lincoln Donovan can be reached on (571) 272-2800 ext.37. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Edgardo San Martin/

Edgardo San Martín
Primary Examiner
Art Unit 2837
Class 181
March 16, 2008